

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-6302**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RONALD JOURDAN EVANS, a/k/a Freak, a/k/a  
Man-Man,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Norfolk. Robert E. Payne, District Judge.  
(CR-92-163, CA-92-163-2)

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Submitted: March 12, 2003

Decided: May 15, 2003

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Before NIEMEYER, MICHAEL, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ronald Jourdan Evans, Appellant Pro Se. Laura Marie Everhart,  
Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Ronald Jourdan Evans appeals the district court's order construing his motion under Fed. R. Civ. P. 60(b), in which he sought to challenge the denial of a motion for reduction of sentence, as a successive motion under 28 U.S.C. § 2255 (2000), and dismissing the motion without prejudice. We find no error in the construction of Evans's motion as a successive § 2255 motion.

An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2255 motion on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 112 S. Ct. 318 (2001). We have independently reviewed the record and conclude that Evans has not made the requisite showing. See Miller-El v. Cockrell, \_\_\_\_ U.S. \_\_\_\_, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED